

DT14Rec CT/PTO 19 FEB 2004

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST-CLASS MAIL IN AN ENVELOPE ADDRESSED TO: Mail Stop: Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

ON: 13 February 2004

(Signature)

P32396

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Barges, et al 13 February 2004
Serial No.: 10/069,681 Group Art Unit No.: Unknown
Filed: 17 August 2000 Examiner: Unknown
For: Pharmaceutical Formulation Comprising Amoxycillin and Clavulanate

Mail Stop Petitions
Commissioner of Patents
P.O. Box 1450
Alexandria, Va 22313-1450

PETITION UNDER 37 CFR §1.181 OR A PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

The above-identified application is stated to have become abandoned for failure to file a timely and proper reply to a Notice to File Missing Requirements mailed on 2 May 2002, by the United States Patent and Trademark Office.

APPLICANT'S HEREBY PETITION FOR REVIVAL OF THIS APPLICATION

The Applicants enclose the following items in support of this petition:

- (1) Notice of Abandonment;
- (2) Notice of Missing Requirements, Reply Thereto, & Statement
- (3) Petition under 37 CFR §1.181 or §1.137(b)
- (4) No Terminal Disclaimer required; and
- (5) Petition fee

1. A copy of the Notification of Abandonment, received 3 February 2004 is attached herewith indicating a failure to respond to the notification of Missing Requirements mailed 2 May 2002.

06/22/2004 CSM00T 00000004 192570 10069681

Sale Ref: 00000004 DA#: 192570 10069681

01 FC:1460 130.00 DA

Adjustment Date: 06/22/2004 CSM00T

02/24/2004 LLANDGRA 00000002 192570 10069681

01 FC:1453 1330.00 CR

2. Applicants submit that they responded to the notification of Missing Requirements but inadvertently submitted the papers under the wrong US serial number.

However, the papers did have Applicants correct Docket no., and importantly, Applicants correct International Application No. PCT/EP00/08048 (a copy of the submission, extension, & returned postcard are enclosed herewith). Consequently, it is believed that Applicants submission of the signed Declaration and Power of Attorney was correct and that the abandonment of the application by the USPTO is improper. Applicants respectfully request that this paper be considered a Petition under 37 CFR §1.181 as Applicants made a good faith response in a timely manner to the Missing Requirements. Reconsideration and withdrawal of the Notice of Abandonment is respectfully requested.

3. If the USPTO believes that this is an improper Petition, than Applicants respectfully request that this be considered a Petition for Revival of an Unintentional Abandonment of an Application under 37 CFR §1.137(b). Applicants hereby state that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.
4. It is not believed that a Terminal Disclaimer is necessary in this application as part of the fault for the Notice of Abandonment lies with the USPTO for their failure to match either the docket number or the PCT application number with the file and hence avoid the abandonment thereof.

5. Petition Fee- If the Director believes that a fee is appropriate for this paper as a Petition under 37 CFR 1.181, please consider the Commissioner is authorized to charge the requisite fees relating to this Petition to Deposit Account No. 19-2570. If the Director considers this a paper a Petition for Revival of an Unintentional Abandonment of an Application under 37 CFR §1.137(b), please charge the required fee under 37 CFR 1.17(m), of \$1,330.00 to Deposit Account No. 19-2570. In addition, please charge any additional requisite fees or credit any fees relating to this response to the same Deposit Account.

Serial No.: 10/069,681

Group Art Unit No.: unknown

Should the Examiner or Director have any questions or wish to discuss any aspect of this case, please contact the undersigned at the number below.

Respectfully submitted, c



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